

Emergency Hearing
September 19, 2018

REPORTER'S RECORD
VOLUME 1 OF 1 VOLUMES

TRIAL COURT CAUSE NO. 2018-04586J

IN THE INTEREST) IN THE DISTRICT COURT
)
OF) HARRIS COUNTY, TEXAS
)
THE BRIGHT CHILDREN) 315TH JUDICIAL DISTRICT

EMERGENCY HEARING

On the 19th day of September, 2018, the following proceedings came on to be held in the above-titled and numbered cause before the Honorable Brian Fischer, Visiting Master Judge, held in Houston, Harris County, Texas.

Proceedings reported by computerized stenotype machine.

KARA SALAZAR, CSR
979-583-7595



Emergency Hearing
September 19, 2018

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VOLUME 1

Emergency Hearing

September 19, 2018

			PAGE	VOL.
				V.Dire
Lavarvia Jones	Direct	Cross		
By Mr. Masquelette	4 v1			
By Mr. Mitchell		11 v1		
By Mr. Longworth		17 v1		
By Mr. Maisel		18 v1		
By Mr. Mitchell		22 v1		

Emergency Hearing
September 19, 2018

1	By Mr. Longworth	24 v1	
2	Court's Ruling	24	1
3	Reporter's Certificate	26	1

ALPHABETICAL INDEX OF WITNESSES

4		Direct	Cross	V.Dire
5	Jones, Lavarvia	4 v1	11 v1	
6	Jones, Lavarvia		17 v1	
7	Jones, Lavarvia		18 v1	
8			22 v1	
9			24 v1	

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Lavarvia Jones - September 19, 2018
Direct Examination by Mr. Masquelette

1 MR. MASQUELETTE: Your Honor, we're here
2 on Cause No.~2018-04586J, in the interest of
3 Charlotte Bright and Mason Bright. Present before the
4 Court is Lavarvia Jones, DFPS caseworker.

5 I'll defer to other counsel to make their
6 announcements, please.

7 MR. LONGWORTH: Daryl Longworth for the
8 children.

9 MR. MAISEL: John Maisel for the mother,
10 Melissa Burrell Bright.

11 MR. MITCHELL: Ryan Mitchell, appointed by
12 the Court to represent the father, Michael Bright; and
13 my understanding is Michael Bright's not in the
14 courtroom, and I believe the caseworker said neither
15 parent was going to come down, right?

16 THE CASEWORKER: Yes.

17 MR. MITCHELL: Okay.

18 MR. MASQUELETTE: Your Honor, we're set
19 here on an emergency proceeding.

20 I'd like to call the caseworker.

21 **DIRECT EXAMINATION**

22 QUESTIONS BY MR. MASQUELETTE:

23 Q. Ma'am -- sir, state your name for the Court.

24 A. Lavarvia Jones.

25 Q. Mr. Jones, you are the investigations

Lavarvia Jones - September 19, 2018
Direct Examination by Mr. Masquelette

1 caseworker for Charlotte and Mason Bright; is that
2 correct?

3 A. Yes, sir.

4 Q. Can you tell the Court without asserting the
5 truthfulness of the matter asserted, what were
6 allegations that resulted in CPS involvement with these
7 two children on or about July 18th, 2018?

8 A. A five-month-old sustained two skull fractures
9 and a subabdominal hemorrhage.

10 Q. Okay. And then during the course of the
11 investigation, you had an opportunity to speak with the
12 mother and father both at Texas Children's Hospital; is
13 that correct?

14 A. Yes, sir.

15 Q. Let's talk about the interview you had with the
16 mom.

17 Can you tell the Court what the mom told
18 you in terms of an explanation as to how the child would
19 have received multiple skull fractures?

20 A. Explanation from Mom is that they were outside
21 about 4:00 -- roughly 4:00ish, 4:20, 4:30, in the
22 driveway. Five-month-old baby in a bouncer;
23 two-year-old Charlotte is playing in the sprinkler
24 system. Mom observes the five-month-old being fussy;
25 so, she takes the two-year-old -- and before she changes

Lavarvia Jones - September 19, 2018
Direct Examination by Mr. Masquelette

1 the two-year-old, she takes the five-month-old out of
2 the bouncer and places him in the folding chair with his
3 feet toward the back of the folding chair.

4 So, she turns around to change Charlotte
5 and she hears a (indicating) crunch sound and the baby
6 screaming to the top of his lungs. Mom then scooped
7 baby up, they go into the home with the two -- with the
8 two-year-old. She calls Dad; Dad tell her to call EMS;
9 EMS comes to the home; Dad comes to the home; baby is
10 transported to Texas children's here in The Woodlands.

11 Q. Okay. What else did the mom tell you during
12 that exchange?

13 A. Mom -- well, during the interview, I think what
14 I left off is, when the baby fell, she said he was
15 fussy. So, when they went back in the residence, she
16 tried to feed him. She noticed that he would not latch,
17 and she observed a whelp mark to his head; and at that
18 point, that's when she called Dad, and then at that
19 point called EMS.

20 Q. Okay. And did you speak with him out at
21 Texas Children's Woodlands or at the Texas Children's
22 Medical Center?

23 A. Medical Center.

24 Q. Okay. So, the child actually was transported
25 from Woodlands to Medical Center. Was that due to the

1 severity of the injuries?

2 A. Uh, yes, sir.

3 Q. Okay. And then shortly thereafter, you had an
4 opportunity to speak with the father; is that correct?

5 A. Yes, sir, this is correct.

6 Q. What, if anything, did the father tell you that
7 might shed light on the possible cause of the multiple
8 skull fractures?

9 A. Dad was not there when the incident occurred.
10 Dad gave me what Mom had given him as far as an
11 explanation as to what happened to Mason.

12 Q. And there was also concerns the child has
13 suffered retinal bleeds; is that correct?

14 A. Yes, sir.

15 Q. All right. And then the child was then
16 examined by medical personnel at Texas Children's
17 Hospital; is that correct?

18 A. Yes, sir.

19 Q. Including but not limited to child abuse
20 pediatric specialist, Dr. Kwabena Sarpong; is that
21 right?

22 A. Yes, sir.

23 Q. All right. And then after the child was
24 examined by Dr. Sarpong, DFPS received information that
25 resulted in the -- in a discussion with the parents

Lavarvia Jones - September 19, 2018
Direct Examination by Mr. Masquelette

1 regarding a parental child safety placement with the
2 grandparents; is that right?

3 A. Yes, sir, this is correct.

4 Q. At that point, did DFPS believe, based on the
5 information they received from the hospital and
6 elsewhere, that there was a child that suffered
7 non-accidental trauma?

8 A. Yes, sir, a high risk of accidental --
9 non-accidental trauma.

10 Q. Okay. So, then child's placed with
11 grandparents; is that right?

12 A. Yes, sir.

13 Q. And were -- and that was a voluntary placement
14 on the part of the parents at that point?

15 A. Yes, sir.

16 Q. Are the mom and dad married to each other?

17 A. Yes, sir, mom and dad are married.

18 Q. Okay. So, when did DFPS end up placing the
19 children with Grandparents?

20 A. July 24th.

21 Q. Okay. So, what's been going on since
22 July 24th, 2018?

23 A. Since that time we had a family team meeting.
24 The family expressed interest in doing other relatives
25 as possible PCSP, so --

Lavarvia Jones - September 19, 2018
Direct Examination by Mr. Masquelette

1 Q. Just for clarity of record, when you say
2 "PCSP," what does that stand for?

3 A. Parental child safety placement.

4 Q. Okay.

5 A. Okay. So, at the family team meeting, myself
6 and my supervisor, who participates in that meeting, we
7 entertained the idea; but we still had to staff it with
8 our program director; and from the agency's perspective
9 not moving the kid was a good idea because it presented
10 the child exposure to harm.

11 Q. Why do you say that?

12 A. Well, because we have a five-month-old who's
13 already sustained an injury; so, moving him around from
14 place to place exposes him to risk.

15 Q. Are we concerned about other prospective
16 caregivers in the family?

17 A. Yes, you know, with the fact that we have an
18 unexplained injury regarding Mason.

19 Q. Do we have any reason to believe that someone
20 besides the mother or father would be an alleged
21 perpetrator of this child?

22 A. No, sir.

23 Q. So, did the other family members have past CPS
24 history or criminal history that would make placement
25 not viable?

Lavarvia Jones - September 19, 2018
Direct Examination by Mr. Masquelette

1 A. No, the potential child safety placement, they
2 checked out -- backgrounds checked out to be fine.

3 Q. And the reason we were thinking about moving
4 him was because the grandparents just basically said we
5 can't do this anywhere?

6 A. No, because the parents wanted the child
7 closer. The potential placement was in Spring. Mom and
8 Dad live in Tomball. The initial placement was in
9 Baytown, so it was a trek for Mom and Dad.

10 Q. Okay. Was there anything really wrong in
11 particular with this new perspective PCSP that the
12 parents proposed?

13 A. No, sir.

14 Q. Then why not just move him?

15 A. Because the exposure that could possibly be
16 presented as a risk to a five-month-old.

17 Q. What risk to a five-month-old?

18 A. Well, because like I said, he sustained
19 injuries and moving him from household to household,
20 from the agency's perspective.

21 Q. Okay. All right. Do you believe that there's
22 an immediate threat to the health and safety of the
23 child at this time?

24 A. I'm sorry?

25 Q. Do you believe there's an immediate threat to

1 the health and safety of the child at this time?

2 A. At this time, I would say yes.

3 Q. Okay. Are you asking that the Department of
4 Family and Protective Services be named the emergency
5 temporary managing conservator of the child?

6 A. Yes, sir.

7 MR. MASQUELETTE: I'll pass this witness.

8 THE COURT: Mr. Mitchell.

9 **CROSS-EXAMINATION**

10 QUESTIONS BY MR. MITCHELL:

11 Q. So, the child was placed in a PCSP placement,
12 correct?

13 A. Correct.

14 Q. Okay. So, what about -- why are we now going
15 from a PCSP placement to filing an emergency two months
16 after placement of the child with the grandparents?

17 A. Because Mom and Dad violated the placement.

18 Q. And how?

19 A. Dad informed me on August 24th that he was not
20 going to comply with the agency anymore; and as a
21 result, they would -- they would be taking -- they would
22 be taking the children.

23 Q. Okay. So, it has nothing to do with the
24 placement breaking down, it has everything to do with
25 what the father told you?

Lavarvia Jones - September 19, 2018
Cross-Examination by Mr. Mitchell

1 A. Yes, sir.

2 Q. And he told you that when?

3 A. He told me that roughly around August 28th.

4 Q. Okay. And today's date -- and you would say
5 upon receiving that information, you then wanted to --
6 you believe that the child might be in danger or
7 anything like that?

8 A. Yes, sir, absolutely. I did share --

9 Q. Okay. So, why sit on it for 25 days?

10 A. Well, I shared the information and we were
11 waiting for another staffing because we had initially
12 staffed this --

13 MR. MITCHELL: Objection, nonresponsive,
14 Judge.

15 THE COURT: Sustained.

16 MR. MITCHELL: Okay.

17 Q. (BY MR. MITCHELL) So, if the father told you
18 that he's not going to comply and he's going to take his
19 kids, and that created the emergency; but you waited
20 what, 6 -- 25 days to come into court to file the
21 emergency, correct?

22 A. Yes.

23 Q. Okay. Did anything in those 20 -- did the
24 father in those 26 days ever do anything along the lines
25 of coming to take the kids?

Lavarvia Jones - September 19, 2018
Cross-Examination by Mr. Mitchell

1 A. Well, I don't know exactly what he did. I
2 mean, all I know is that the children were at the
3 residence -- were back at the residence on the 28th.

4 Q. At whose residence?

5 A. Back in Mom and Dad's residence.

6 Q. Okay.

7 MR. MITCHELL: I feel like I'm asking your
8 questions for you, dude. Strike that from the record.

9 Q. (BY MR. MITCHELL) What is the reason why we're
10 filing the emergency now?

11 A. Mom and Dad violated the placement.

12 Q. Okay. And again, how?

13 A. By taking the children -- there's an agreed
14 document that they signed.

15 Q. Okay.

16 A. And so, again, as a result, they took the
17 children out of the agreed placement.

18 Q. Okay.

19 A. You know --

20 Q. And you learned of that on the 28th?

21 A. Yes, that's what Dad told me he was doing that.
22 He hadn't done it yet. Dad told me he was going to do
23 it, and so -- right.

24 Q. Let me --

25 A. Okay.

Lavarvia Jones - September 19, 2018
Cross-Examination by Mr. Mitchell

1 Q. -- stop.

2 A. Okay, okay.

3 Q. Are -- where are the children now?

4 A. Children are in Mom and Dad's residence.

5 Q. Okay. When did the children go from their PCSP
6 placement to Mom and Dad's residence?

7 A. According to Mom, on the 28th when Dad told me.

8 Q. When did you learn that he was -- that the
9 children were now with Mom and Dad?

10 A. Yesterday.

11 Q. Okay. So, yesterday when you found out that
12 they're with Mom and Dad, you then had another
13 conversation with the parents?

14 A. Had a conversation with my supervisor.

15 Q. How did you learn that the kids were with Mom
16 and Dad?

17 A. Had a conversation with Mom.

18 Q. When?

19 A. Yesterday.

20 Q. Okay, okay. It says in, I guess, the medical
21 records that you attached to the petition, that there --
22 the hospital recommended a skeletal survey. Has that
23 been done?

24 A. For the two-year-old, yes.

25 Q. Okay. Do you know how many have been done

1 because it says repeat skeletal survey in two weeks'
2 time?

3 A. At this point, I believe it's just been one for
4 the two-year-old.

5 Q. Okay. Have you seen those medical records?

6 A. I don't have those medical records, but from
7 speaking to the social worker, she informed me that her
8 skeletal, they were fine. No issue with skeletal.

9 Q. And they did a skeletal survey two weeks after
10 being discharged from the hospital?

11 A. Yes, sir.

12 Q. Okay. There was also a recommended hematology
13 consultation. Did that happen?

14 A. Yes, sir.

15 Q. Have you looked at that?

16 A. Yes.

17 Q. And what were the results of that?

18 A. On that one, there's still more conclusive but
19 high risk of abuse. They are basically saying that the
20 excessive blood from Mason would have not been from
21 something that they, as a precaution, would have thought
22 to be hereditary.

23 Q. Okay. And then, also in those medical records
24 it states that there were two different injuries, that
25 one of them was consistent or could be consistent with

1 what the mother stated and the other one does not,
2 correct?

3 A. Yes, sir.

4 Q. Okay. So, those two -- those skeletal surveys
5 and other consultations, are you -- is CPS in possession
6 of those?

7 A. Yes.

8 Q. Okay. And since the parents took the kids and
9 had them in their home from August the 28th until
10 present day, have the -- have the children sustained any
11 further injuries?

12 A. Not that we know of.

13 Q. Okay. Have they been to any follow-ups that
14 were ordered for the kids?

15 A. Mom did tell me that Mason had a follow-up
16 about a week ago --

17 Q. Okay --

18 A. -- roughly.

19 Q. -- so, even though the parents have possession
20 of the kid, they're still taking him to the follow-ups?

21 A. From -- yes, from, what Mom was saying, yes,
22 sir.

23 Q. Okay. And when's the last time that CPS has
24 gone over to the parents' house to visit the kids?

25 A. Last time I saw the children were on the 14th.

Lavarvia Jones - September 19, 2018
Cross-Examination by Mr. Longworth

1 Q. Of?

2 A. Of August.

3 Q. Okay.

4 MR. MITCHELL: No further questions,
5 Judge.

6 THE COURT: Mr. Maisel.

7 MR. MAISEL: No questions at this time.

8 THE COURT: Mr. Longworth.

9 MR. LONGWORTH: Yes.

10 **CROSS-EXAMINATION**

11 QUESTIONS BY MR. LONGWORTH:

12 Q. Okay. So, we have a situation where you have
13 the kids in a safety placement plan, correct?

14 A. Yes, sir.

15 Q. And Mom and Dad went and took them and the
16 grandparents didn't stop them, did they?

17 A. No, sir.

18 Q. And then, we have these two parents who may be,
19 allegedly, may be even possibly charged with injury to a
20 child for shaking a baby; so, wouldn't it be more
21 prudent to go ahead and now look for a foster placement
22 and not jeopardize these children's safety with other
23 relatives who may just give these kids back to the
24 parents and exposure the children to more danger?

25 A. Yes, sir.

1 Q. And did you staff that with your supervisor?

2 A. Yes, sir.

3 Q. And are you seeking to have the kids moved to a
4 foster placement for their safety?

5 A. Yes, sir.

6 MR. LONGWORTH: I'll pass the witness,
7 Your Honor.

8 THE COURT: Any other questions of the
9 caseworker?

10 MR. MASQUELETTE: No, Your Honor.

11 MR. MAISEL: Just very briefly.

12 **CROSS-EXAMINATION**

13 QUESTIONS BY MR. MAISEL:

14 Q. The parents had indicated they wanted someone
15 in Spring or Tomball to care for the children that's
16 subject of the suit, correct?

17 A. Yes.

18 Q. Is that a kinship or a relative?

19 A. Okay. I'm sorry, Counsel, can you repeat that?

20 Q. Yes. When the parents removed the children
21 from the paternal grandparents, they went to a family
22 group conference and indicated they wanted other
23 placement in lieu of foster care, correct?

24 A. Okay. Before they removed the children from
25 the paternal grandparents, we had a family team meeting;

1 and at the family team meeting, yes, sir, they did
2 request to have the children moved.

3 Q. And who were these people that they suggested
4 that they be relocated to?

5 A. Dad's uncle, so the children's great uncle and
6 aunt.

7 Q. Okay. And don't parents have a right to place
8 these children with relatives if it's safe, secure, and
9 stable?

10 MR. MASQUELETTE: Objection, calls for a
11 legal conclusion. This is not a lawyer.

12 THE COURT: If he knows.

13 A. Okay. I'm sorry, can you repeat the question?

14 Q. (BY MR. MAISEL) Well, the parents have -- if
15 they can't parent at the present time, they have the
16 option to suggest relative placement?

17 A. Yes, sir, this is correct.

18 Q. All right. And what kind of risk or exposure
19 was evident with the Spring or Tomball placement?

20 A. The risk -- because like I previously said
21 before, I mean, we have an injury that's unexplainable
22 that, you know, we don't know who caused this injury to
23 this child; so, for the agency, you know, to bounce the
24 kid around and remove the kid from home to home, it
25 would be an exposure of risk.

1 Q. Well -- how is that going to further endanger
2 these children where it's an immediate and present
3 danger to move them 25 days later from Harris County to
4 Tomball or Spring? How is that going to endanger them?

5 A. I mean, that's -- I guess that's the unknown.

6 Q. Okay. Well, if the child was medically
7 fragile, the child would still be at TCH in Woodlands,
8 correct?

9 A. Correct.

10 Q. All right. So, the child was released. Mother
11 has followed up on subsequent visits?

12 A. Uh-huh.

13 Q. Where is the immediate and present danger of
14 moving them from A to B, 25 days later?

15 A. It's the risk.

16 Q. What kind of risk? Tell me.

17 A. It's an exposure for the children being abused,
18 because, again, a five-month-old sustained an injury
19 that we don't have an explanation as to how this injury
20 occurred.

21 Q. Well, isn't it preferable to have the children
22 with relatives versus foster care or strangers?

23 Who are these -- who is the great uncle
24 that expressed an interest?

25 A. That's Dad's uncle.

1 Q. Okay. All right.

2 MR. LONGWORTH: And Your Honor, I'm sorry.
3 May I ask for just a one or two-minute recess? I have
4 to call the 312th and let them know I'm late; otherwise,
5 they're going to go ballistic. If that's possible, I
6 don't know.

7 MR. MITCHELL: I have no objection to
8 that, Judge.

9 MR. MASQUELETTE: No objection.

10 MR. MITCHELL: I've been there before,
11 too. I don't want that phone call made.

12 MR. LONGWORTH: Sorry, I'll be right back,
13 Judge.

14 (Recess taken)

15 THE COURT: All right. Back on the
16 record.

17 Go ahead, Mr. Maisel.

18 Q. (BY MR. MAISEL) All right. Sir, so I was
19 trying to establish if the parents had a parental child
20 safety plan and they wanted to move the child to another
21 relative, tell me what dangers are present with the
22 great uncle from Tomball or Spring?

23 A. There were no -- no issues, like I said, with
24 the paternal uncle and aunt.

25 MR. MAISEL: Objection, nonresponsive.

1 THE COURT: Overruled.

2 Q. (BY MR. MAISEL) All right. Go ahead.

3 So, you were saying they had -- you had no
4 issues with the great uncle?

5 A. Right, after running a background check and
6 doing the little preliminaries that we do, they checked
7 out to be fine, appeared to be fine.

8 Q. So, why can't we proceed with parental child
9 safety plan in lieu of an emergency petition?

10 MR. MASQUELETTE: Objection, calls for a
11 legal conclusion.

12 THE COURT: Overruled.

13 A. There's this risk -- exposure from bouncing the
14 baby from one place to another place. Again, you know,
15 Mom and Dad checked out to be fine, background, but
16 again, we have an injury to a five-month-old that's
17 unexplainable.

18 MR. MAISEL: Pass the witness.

19 THE COURT: Any other questions of the
20 caseworker?

21 MR. MASQUELETTE: No, your Honor.

22 MR. MITCHELL: I have one more, Judge.

23 THE COURT: Go ahead.

24 **RECROSS-EXAMINATION**

25 BY MR. MITCHELL:

1 Q. So, the kids are currently with the parents,
2 right?

3 A. Correct.

4 Q. So, if the emergency goes through, we're going
5 to have to bounce the kids from their current placement
6 to a foster care, correct?

7 A. Yes, sir.

8 Q. Okay. As stated before, they were placed --
9 the kids are currently with the parents, correct?

10 A. Yes.

11 Q. If we agree to go with the PCSP placement in
12 Spring and Tomball, the kids will have to be bounced
13 from their current placement to the placement in Spring,
14 correct?

15 A. Right.

16 Q. So, one more move has to occur whether it's
17 foster placement through the emergency --

18 A. Uh-huh.

19 Q. -- or the continuing with the PCSP, correct?

20 A. Correct.

21 Q. So, the same movement has to occur however we
22 proceed?

23 A. Yes, sir, you're absolutely right.

24 MR. MITCHELL: No further questions,
25 Judge.

Lavarvia Jones - September 19, 2018
Recross-Examination by Mr. Longworth

1 THE COURT: Any other questions?

2 MR. LONGWORTH: A follow-up, Your Honor.

3 **RECROSS-EXAMINATION**

4 BY MR. LONGWORTH:

5 Q. So, really the risk isn't that the children
6 have to be moved one more time, the risk that you've
7 been trying to articulate to the Court is moving these
8 kids from parents' house to another relative would
9 expose them to the potential of the parents grabbing
10 them again and those parents are parents who may have
11 abused this child; isn't that correct?

12 A. Yes, sir.

13 Q. So, actually moving the kids from parents'
14 house to the other relative or the parents' house to a
15 foster parent isn't the real concern, it's the access
16 that the parents would have is the real concern, isn't
17 it?

18 A. That is correct.

19 MR. LONGWORTH: Pass the witness.

20 THE COURT: Any other questions.

21 MR. MASQUELETTE: No, Your Honor.

22 THE COURT: All right. The Court finds
23 that there was an immediate danger to the physical
24 health or safety of the children, and that continuation
25 in the home would be contrary to the children's welfare,

Emergency Hearing
September 19, 2018

1 that there's no time consistent with the physical health
2 or safety of the children and the nature of the
3 emergency for a full adversary hearing under subchapter
4 C; and that reasonable efforts consistent with the
5 circumstances in providing for the safety of the
6 children were made to prevent or eliminate the need for
7 removal of the children.

8 DFPS is appointed emergency temporary
9 managing conservator. We'll reset 'till
10 October 3rd 2018 for a show cause hearing, and the
11 dismissal date is September 23rd, 2019.

12 MR. MITCHELL: Judge, I would request or
13 make a note on the record that I'm instructing DFPS to
14 not communicate with my client without either my
15 permission or my presence.

16 THE CASEWORKER: Mom?

17 MR. MITCHELL: I got Dad. And I represent
18 the dad.

19 THE COURT: Yeah, that's fine.

20 MR. MITCHELL: If there's potential
21 criminal activity, I want to make sure that they don't
22 contact my client.

23 THE COURT: Yep. We're off the record.

24 (Proceedings concluded)
25

Emergency Hearing
September 19, 2018

1 STATE OF TEXAS

2 COUNTY OF HARRIS

3 I, Kara Salazar, Deputy Court Reporter in and for
4 the 315th District Court of Harris, State of Texas, do
5 hereby certify that the above and foregoing contains a
6 true and correct transcription of all portions of
7 evidence and other proceedings requested in writing by
8 counsel for the parties to be included in this volume of
9 the Reporter's Record in the above-styled and numbered
10 cause, all of which occurred in open court or in
11 chambers and were reported by me.

12 I further certify that this Reporter's Record of the
13 proceedings truly and correctly reflects the exhibits,
14 if any, offered by the respective parties.

15 I further certify that the total cost for the
16 preparation of this Reporter's Record is \$312.00 and was
17 paid/will be paid by Mr. Slate.

18

19

/s/Kara Salazar

20

21

22

23

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25

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